

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17459 of DC Hampton LLC, pursuant to 11 DCMR § 3103.2, for a variance from the residential recreation space requirements under section 773, to allow the construction of a 27 unit multiple dwelling in the Arts/C-3-A District at premises 1446-1454 Church Street, N.W. (Square 209, Lots 911 and 917).

NOTE: Upon advice from the Office of the Zoning Administrator, the Applicant amended the application to request variance relief from the parking requirement. However, the Applicant indicated its view that the relief was not necessary. The Board concurred that relief from subsection 2101.1 (Off-Street Parking Requirements) was unnecessary.

HEARING DATE: May 2, 2006
DECISION DATE: June 6, 2006

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2F. The ANC submitted a report recommending that the Board approve the residential recreation space relief and deny the off-street parking relief. The OP submitted a report recommending that the Board approve the residential recreation space relief and denial the off-street parking relief.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the variance from the residential recreation space requirements. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the evidence of record, and upon the Board's own previous rulings, the Board finds that a parking variance is not required in this instance. The record contains evidence that the subject site includes a historically significant building that is certified as contributing to the character of the Greater 14th Street Historic District. Section 2100.5 of the Zoning Regulations states that "no additional parking spaces shall be required for a historic landmark or a building ... located in a historic district that is certified ... as contributing to the character of that historic district." The record in this case contains citations to many decisions of this Board finding and concluding that Section 2100.5 operates to waive the requirement for additional parking spaces for new construction in such instances. This has been a long-standing consistent interpretation by this Board, as well as by the Office of the Zoning Administrator, since Section 2100.5 was enacted by the Zoning Commission in 1985. The Office of the Zoning Administrator has recently called this interpretation into question. The Board finds that its prior reasoning is sound, and that there is no reason to reverse this long-standing interpretation. Indeed it is the Board, and not the Zoning Administrator, which has the final administrative authority to interpret the Zoning Regulations. *Murray v. D.C Bd. of Zoning Adjustment*, 572 A.2d 1055, 1058 (D.C. 1990).

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 773, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 3-0-2 (Geoffrey H. Griffis, Ruthanne G. Miller and John A. Mann II to approve, Curtis L. Etherly, Jr. not hearing the case, not voting and Carol J. Mitten hearing the case, but not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

ATTESTED BY: 

JERRILY R. KRESS, FAIA

Director, Office of Zoning

FINAL DATE OF ORDER: JUL 07 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE

BZA APPLICATION NO. 17459

PAGE NO. 4

TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



BZA APPLICATION NO. 17459

As Director of the Office of Zoning, I hereby certify and attest that on July 7, 2006, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Christopher H. Collins, Esq.
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 2F
5 Thomas Circle, N.W.
Washington, D.C. 20005

Commissioner 2F01
Advisory Neighborhood Commission 2F
5 Thomas Circle, N.W.
Washington, D.C. 20005

Jack Evans, City Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W.
Suite 106
Washington, D.C. 20004

Bill Crews, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Director
Office of Planning

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 17459

PAGE NO. 2

801 North Capitol Street, N.E.

4th Floor.

Washington, D.C. 20002

Alan Bergstein, Esq.

Office of the Attorney General

441 4th Street, N.W., 6th Floor

Washington, D.C. 20001

Jill Stern, Esq.

General Counsel

DCRA

rsn

ATTESTED BY:


JERRILY R. KRESS, FAIA

Director, Office of Zoning 